

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 6578

61st Legislature
2010 Regular Session

Passed by the Senate March 8, 2010
YEAS 47 NAYS 0

President of the Senate

Passed by the House March 10, 2010
YEAS 95 NAYS 2

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 6578** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 6578

Passed Legislature - 2010 Regular Session

State of Washington

61st Legislature

2010 Regular Session

By Senate Ways & Means (originally sponsored by Senators Swecker, Jacobsen, Kastama, Pflug, Becker, and Fraser)

READ FIRST TIME 03/08/10.

1 AN ACT Relating to the creation of optional multiagency permitting
2 teams; amending RCW 43.42.005 and 43.42.070; reenacting and amending
3 RCW 43.84.092 and 43.131.402; adding new sections to chapter 43.42 RCW;
4 and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 43.42.005 and 2009 c 97 s 1 are each amended to read
7 as follows:

8 (1) The legislature finds that: The health and safety of its
9 citizens and environment are of vital interest to the state's long-term
10 quality of life; Washington state is a national leader in protecting
11 its environment; and Washington state has a vibrant and diverse economy
12 that is dependent on the state maintaining high environmental
13 standards. Further, the legislature finds that a complex and confusing
14 network of environmental and land use laws and business regulations can
15 create obstacles to sustainable growth.

16 It is the intent of the legislature to promote accountability,
17 timeliness, and predictability for citizens, business, and state,
18 federal, and local permitting agencies, and to provide information and

1 assistance on the regulatory process through the creation of the office
2 of regulatory assistance in the governor's office.

3 (2) The office of regulatory assistance is created to work to
4 continually improve the function of environmental and business
5 regulatory processes by identifying conflicts and overlap in the
6 state's rules, statutes, and operational practices; the office is to
7 provide project proponents and business owners with active assistance
8 for all permitting, licensing, and other regulatory procedures required
9 for completion of specific projects; and the office is to ensure that
10 citizens, businesses, and local governments have access to, and clear
11 information regarding, regulatory processes for permitting and business
12 regulation, including state rules, permit and license requirements, and
13 agency rule-making processes.

14 (3) The legislature declares that the purpose of this chapter is to
15 provide direction ~~((and))~~, practical resources, and a range of
16 innovative and optional service delivery options for improving the
17 regulatory process and for providing assistance through the regulatory
18 process~~((es))~~ on individual projects in furtherance of the state's
19 goals of governmental transparency and accountability.

20 (4) The legislature intends that establishing an office of
21 regulatory assistance will provide these services without abrogating or
22 limiting the authority of any agency to make decisions on permits,
23 licenses, regulatory requirements, or agency rule making. The
24 legislature further intends that the office of regulatory assistance
25 shall have authority to provide services but shall not have any
26 authority to make decisions on permits.

27 NEW SECTION. Sec. 2. A new section is added to chapter 43.42 RCW
28 to read as follows:

29 (1) The legislature finds that the state of Washington has
30 implemented a number of successful measures to streamline, coordinate,
31 and consolidate the multiparty, multijurisdictional permitting and
32 regulatory decision-making process. The office of regulatory
33 assistance was developed and implemented at a time when the state faced
34 a crisis in its economic competitiveness. The multiagency permitting
35 team for transportation was developed and implemented at a time when
36 the state's transportation system faced a crisis in public confidence
37 concerning transportation project delivery. The legislature further

1 finds that the state of Washington is now facing an economic and
2 financial crisis that requires immediate action to spur economic
3 development and the creation of jobs without sacrificing the quality of
4 the state's environment.

5 (2) The legislature intends to:

6 (a) Draw from and extend the benefits of proven permit streamlining
7 solutions to future project proponents and aid the state's recovery by
8 authorizing optional multiagency permitting teams modeled after the
9 multiagency permitting team developed and implemented for state
10 transportation projects. It is the purpose of this act to provide
11 willing permit applicants and project proponents with permit
12 coordination and integrated regulatory decision-making services on a
13 cost-reimbursed basis; and

14 (b) Phase-in a revenue-neutral permit streamlining approach to
15 expedite permit and regulatory decision making while ensuring a high
16 level of environmental protection.

17 NEW SECTION. Sec. 3. A new section is added to chapter 43.42 RCW
18 to read as follows:

19 (1)(a) The office of regulatory assistance is authorized to develop
20 and advertise the availability of optional multiagency permitting teams
21 to provide coordinated permitting and integrated regulatory decision
22 making starting in the Puget Sound basin.

23 (b) New expenses associated with operating the optional multiagency
24 permitting teams must be recovered by the office of regulatory
25 assistance using existing state cost-reimbursement and interagency
26 cost-sharing authorities as applicable. The cost-reimbursement process
27 is subject to the requirements and limitations set forth in RCW
28 43.42.070. Initial administrative costs and other costs that may not
29 be recoverable through cost-reimbursement or cost-sharing mechanisms
30 may be covered by funds from the multiagency permitting team account
31 created in section 5 of this act.

32 (c) The director of the office of regulatory assistance must
33 solicit donations and such other funds as the director deems
34 appropriate from public and private sources for the purposes of
35 covering the initial administrative costs and other costs associated
36 with operation of optional multiagency permitting teams which are not

1 recoverable through cost-reimbursement or cost-sharing mechanisms. All
2 such solicited funds must be placed in the multiagency permitting team
3 account created in section 5 of this act.

4 (2) Optional multiagency permitting teams must be:

5 (a) Mobile, capable of traveling or working together as teams,
6 initially throughout the Puget Sound basin;

7 (b) Located initially in central Puget Sound;

8 (c) Staffed by appropriate senior-level permitting and regulatory
9 decision-making personnel representing the Washington state departments
10 of ecology, fish and wildlife, and natural resources and having
11 expertise in regulatory issues relating to the project; and

12 (d) Managed by the office of regulatory assistance through a team
13 leader responsible for:

14 (i) Managing or monitoring team activities to ensure the
15 cost-reimbursement schedule and agreement is followed;

16 (ii) Developing and maintaining partnerships and working
17 relationships with local, state, tribal, and federal organizations not
18 core to the optional multiagency permitting teams that can be called
19 upon to join the team on a project-by-project basis;

20 (iii) Developing, defining, and providing a set of coordinated
21 permitting and integrated decision-making services consistent with
22 those set forth in subsection (3) of this section;

23 (iv) Developing and executing funding agreements with applicants,
24 project proponents, regulatory agencies, and others as necessary to
25 ensure the financial viability of the optional multiagency permitting
26 teams;

27 (v) Measuring and regularly reporting on team performance, results
28 and outcomes achieved, including improved: Permitting predictability,
29 interagency early project coordination, interagency accessibility,
30 interagency relationships, project delivery, and environmental results,
31 including the avoidance or prevention of environmental harm and the
32 effectiveness of mitigation;

33 (vi) Conducting outreach, marketing, and advertising of team
34 services and team availability, focusing initially on projects such as
35 large-scale public, private, and port development projects with complex
36 aquatics, wetland, or other environmental impacts; environmental
37 cleanup, restoration, and enhancement projects; aquaculture projects;
38 and energy, power generation, and utility projects;

1 (vii) Implementing issue and dispute resolution protocols;
2 (viii) Incorporating and using virtual tools for online
3 collaboration to support permitting and regulatory coordination and
4 expedited decision making; and

5 (ix) Extending and subsequently implementing the optional
6 multiagency permitting team approach to other significant geographic
7 regions of the state.

8 (3) The optional multiagency permitting teams must at a minimum
9 work with the office of regulatory assistance to provide the following
10 core services:

11 (a) Project scoping, as set forth in RCW 43.42.050 (1) through (4),
12 to help applicants identify applicable permits and regulatory
13 approvals;

14 (b) A preapplication coordination service, which may be combined
15 with project scoping, to help applicants understand applicable
16 requirements and plan out with the assistance of the regulatory
17 agencies an optimally sequenced permitting and regulatory decision-
18 making strategy and approach for the overall project;

19 (c) Fully coordinated project review as set forth in RCW 43.42.060
20 to set schedules and agreed-upon time frames for the applicant and
21 regulatory decision makers consistent with statutory requirements and
22 with regard to available agency resources and to track, monitor, and
23 report progress made in meeting those schedules and time frames;

24 (d) Mitigation coordination to help applicants and regulatory
25 agencies collaborate on and implement mitigation obligations within a
26 watershed context so superior environmental results can be achieved
27 when impacts cannot be avoided or further minimized.

28 (4) Local and federal permitting and regulatory personnel should be
29 incorporated into the optional multiagency permitting teams whenever
30 possible and at least on a project-by-project basis. Moneys recouped
31 through state cost-reimbursement and interagency cost-sharing
32 authorities, or as otherwise solicited for deposit into the multiagency
33 permitting team account created in section 5 of this act, may also be
34 used to cover local and federal participation.

35 (5) The optional multiagency permitting teams will provide services
36 for complex projects requiring multiple permits and regulatory
37 approvals and having multiple points of regulatory jurisdiction. The
38 optional multiagency permitting teams are not intended to support state

1 transportation projects capable of being serviced by multiagency
2 permitting teams specifically established for state transportation
3 projects. Use of the optional multiagency permitting teams for a fully
4 coordinated permit process must be allowed unless the office of
5 regulatory assistance notifies a project proponent in writing of other
6 means of effective and efficient project review that are available and
7 are recommended.

8 **Sec. 4.** RCW 43.42.070 and 2009 c 97 s 7 are each amended to read
9 as follows:

10 (1) The office may enter into cost-reimbursement agreements with a
11 project proponent to recover from the project proponent the reasonable
12 costs incurred by the office in carrying out the provisions of RCW
13 43.42.050, 43.42.060, and sections 2 and 3 of this act. The agreement
14 (~~((shall))~~) must include the permit agencies that are participating in
15 the cost-reimbursement project and carrying out permit processing tasks
16 referenced in the agreement.

17 (2) The office (~~((shall))~~) must maintain policies or guidelines for
18 coordinating cost-reimbursement agreements with participating agencies,
19 project proponents, and outside independent consultants. Policies or
20 guidelines must ensure that, in developing cost-reimbursement
21 agreements, conflicts of interest are eliminated. Contracts with
22 independent consultants hired by the office under this section must be
23 based on competitive bids that are awarded for each agreement from a
24 prequalified consultant roster.

25 (3) For fully coordinated permit processes, the office (~~((shall))~~)
26 must coordinate the negotiation of all cost-reimbursement agreements
27 executed under RCW 43.21A.690, 43.30.490, 43.70.630, 43.300.080, and
28 70.94.085. The office, project proponent, and the permit agencies
29 (~~((shall))~~) must be signatories to the agreement or agreements. Each
30 permit agency (~~((shall))~~) must manage performance of its portion of the
31 agreement. Independent consultants hired under a cost-reimbursement
32 agreement shall report directly to the hiring office or permit agency.
33 Any cost-reimbursement agreement must require that final decisions are
34 made by the permit agency and not by a hired consultant.

35 (4) For a fully coordinated project using cost reimbursement, the
36 office and participating permit agencies (~~((shall))~~) must include a cost-
37 reimbursement work plan, including deliverables and schedules for

1 invoicing and reimbursement in the fully coordinated project work plan
2 described in RCW 43.42.060. Upon request, the office (~~shall~~) must
3 verify that the agencies have met the obligations contained in the
4 cost-reimbursement work plan and agreement. The cost-reimbursement
5 agreement (~~shall~~) must identify the tasks of each agency and the
6 maximum costs for work conducted under the agreement. The agreement
7 must include a schedule that states:

8 (a) The estimated number of weeks for initial review of the permit
9 application for comparable projects;

10 (b) The anticipated number of revision cycles;

11 (c) The estimated number of weeks for review of subsequent revision
12 submittals;

13 (d) The estimated number of billable hours of employee time;

14 (e) The rate per hour; and

15 (f) A process for revision of the agreement if necessary.

16 (5) If a permit agency or the project proponent foresees, at any
17 time, that it will be unable to meet its obligations under the cost-
18 reimbursement agreement and fully coordinated project work plan, it
19 (~~shall~~) must notify the office and state the reasons, along with
20 proposals for resolving the problems and potentially amending the
21 timelines. The office (~~shall~~) must notify the participating permit
22 agencies and the project proponent and, upon agreement of all parties,
23 adjust the schedule, or, if necessary, coordinate revision of the cost-
24 reimbursement agreement and fully coordinated project work plan.

25 **NEW SECTION.** **Sec. 5.** A new section is added to chapter 43.42 RCW
26 to read as follows:

27 The multiagency permitting team account is created in the state
28 treasury. All receipts from solicitations authorized in section 3 of
29 this act must be deposited into the account. Moneys in the account may
30 be spent only after appropriation. Expenditures from the account may
31 be used only for covering the initial administrative costs of
32 multiagency permitting teams and such other costs associated with the
33 teams as may arise that are not recoverable through cost-reimbursement
34 or cost-sharing mechanisms.

35 **Sec. 6.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and
36 2009 c 451 s 8 are each reenacted and amended to read as follows:

1 (1) All earnings of investments of surplus balances in the state
2 treasury shall be deposited to the treasury income account, which
3 account is hereby established in the state treasury.

4 (2) The treasury income account shall be utilized to pay or receive
5 funds associated with federal programs as required by the federal cash
6 management improvement act of 1990. The treasury income account is
7 subject in all respects to chapter 43.88 RCW, but no appropriation is
8 required for refunds or allocations of interest earnings required by
9 the cash management improvement act. Refunds of interest to the
10 federal treasury required under the cash management improvement act
11 fall under RCW 43.88.180 and shall not require appropriation. The
12 office of financial management shall determine the amounts due to or
13 from the federal government pursuant to the cash management improvement
14 act. The office of financial management may direct transfers of funds
15 between accounts as deemed necessary to implement the provisions of the
16 cash management improvement act, and this subsection. Refunds or
17 allocations shall occur prior to the distributions of earnings set
18 forth in subsection (4) of this section.

19 (3) Except for the provisions of RCW 43.84.160, the treasury income
20 account may be utilized for the payment of purchased banking services
21 on behalf of treasury funds including, but not limited to, depository,
22 safekeeping, and disbursement functions for the state treasury and
23 affected state agencies. The treasury income account is subject in all
24 respects to chapter 43.88 RCW, but no appropriation is required for
25 payments to financial institutions. Payments shall occur prior to
26 distribution of earnings set forth in subsection (4) of this section.

27 (4) Monthly, the state treasurer shall distribute the earnings
28 credited to the treasury income account. The state treasurer shall
29 credit the general fund with all the earnings credited to the treasury
30 income account except:

31 The following accounts and funds shall receive their proportionate
32 share of earnings based upon each account's and fund's average daily
33 balance for the period: The aeronautics account, the aircraft search
34 and rescue account, the budget stabilization account, the capitol
35 building construction account, the Cedar River channel construction and
36 operation account, the Central Washington University capital projects
37 account, the charitable, educational, penal and reformatory
38 institutions account, the cleanup settlement account, the Columbia

1 river basin water supply development account, the common school
2 construction fund, the county arterial preservation account, the county
3 criminal justice assistance account, the county sales and use tax
4 equalization account, the data processing building construction
5 account, the deferred compensation administrative account, the deferred
6 compensation principal account, the department of licensing services
7 account, the department of retirement systems expense account, the
8 developmental disabilities community trust account, the drinking water
9 assistance account, the drinking water assistance administrative
10 account, the drinking water assistance repayment account, the Eastern
11 Washington University capital projects account, the education
12 construction fund, the education legacy trust account, the election
13 account, the energy freedom account, the energy recovery act account,
14 the essential rail assistance account, The Evergreen State College
15 capital projects account, the federal forest revolving account, the
16 ferry bond retirement fund, the freight congestion relief account, the
17 freight mobility investment account, the freight mobility multimodal
18 account, the grade crossing protective fund, the public health services
19 account, the health system capacity account, the personal health
20 services account, the high capacity transportation account, the state
21 higher education construction account, the higher education
22 construction account, the highway bond retirement fund, the highway
23 infrastructure account, the highway safety account, the high occupancy
24 toll lanes operations account, the industrial insurance premium refund
25 account, the judges' retirement account, the judicial retirement
26 administrative account, the judicial retirement principal account, the
27 local leasehold excise tax account, the local real estate excise tax
28 account, the local sales and use tax account, the medical aid account,
29 the mobile home park relocation fund, the motor vehicle fund, the
30 motorcycle safety education account, the multiagency permitting team
31 account, the multimodal transportation account, the municipal criminal
32 justice assistance account, the municipal sales and use tax
33 equalization account, the natural resources deposit account, the oyster
34 reserve land account, the pension funding stabilization account, the
35 perpetual surveillance and maintenance account, the public employees'
36 retirement system plan 1 account, the public employees' retirement
37 system combined plan 2 and plan 3 account, the public facilities
38 construction loan revolving account beginning July 1, 2004, the public

1 health supplemental account, the public transportation systems account,
2 the public works assistance account, the Puget Sound capital
3 construction account, the Puget Sound ferry operations account, the
4 Puyallup tribal settlement account, the real estate appraiser
5 commission account, the recreational vehicle account, the regional
6 mobility grant program account, the resource management cost account,
7 the rural arterial trust account, the rural Washington loan fund, the
8 site closure account, the small city pavement and sidewalk account, the
9 special category C account, the special wildlife account, the state
10 employees' insurance account, the state employees' insurance reserve
11 account, the state investment board expense account, the state
12 investment board commingled trust fund accounts, the state patrol
13 highway account, the state route number 520 corridor account, the
14 supplemental pension account, the Tacoma Narrows toll bridge account,
15 the teachers' retirement system plan 1 account, the teachers'
16 retirement system combined plan 2 and plan 3 account, the tobacco
17 prevention and control account, the tobacco settlement account, the
18 transportation 2003 account (nickel account), the transportation
19 equipment fund, the transportation fund, the transportation improvement
20 account, the transportation improvement board bond retirement account,
21 the transportation infrastructure account, the transportation
22 partnership account, the traumatic brain injury account, the tuition
23 recovery trust fund, the University of Washington bond retirement fund,
24 the University of Washington building account, the urban arterial trust
25 account, the volunteer firefighters' and reserve officers' relief and
26 pension principal fund, the volunteer firefighters' and reserve
27 officers' administrative fund, the Washington fruit express account,
28 the Washington judicial retirement system account, the Washington law
29 enforcement officers' and firefighters' system plan 1 retirement
30 account, the Washington law enforcement officers' and firefighters'
31 system plan 2 retirement account, the Washington public safety
32 employees' plan 2 retirement account, the Washington school employees'
33 retirement system combined plan 2 and 3 account, the Washington state
34 health insurance pool account, the Washington state patrol retirement
35 account, the Washington State University building account, the
36 Washington State University bond retirement fund, the water pollution
37 control revolving fund, and the Western Washington University capital
38 projects account. Earnings derived from investing balances of the

1 agricultural permanent fund, the normal school permanent fund, the
2 permanent common school fund, the scientific permanent fund, and the
3 state university permanent fund shall be allocated to their respective
4 beneficiary accounts. All earnings to be distributed under this
5 subsection (4) shall first be reduced by the allocation to the state
6 treasurer's service fund pursuant to RCW 43.08.190.

7 (5) In conformance with Article II, section 37 of the state
8 Constitution, no treasury accounts or funds shall be allocated earnings
9 without the specific affirmative directive of this section.

10 **Sec. 7.** RCW 43.131.402 and 2009 c 421 s 10 are each reenacted and
11 amended to read as follows:

12 The following acts or parts of acts, as now existing or hereafter
13 amended, are each repealed, effective June 30, 2012:

14 (1) RCW 43.42.005 and 2009 c 97 s 1, 2007 c 94 s 1, 2003 c 71 s 1,
15 & 2002 c 153 s 1;

16 (2) RCW 43.42.010 and 2007 c 231 s 5, 2003 c 71 s 2, & 2002 c 153
17 § 2;

18 (3) RCW 43.42.020 and 2002 c 153 s 3;

19 (4) RCW 43.42.030 and 2003 c 71 s 3 & 2002 c 153 s 4;

20 (5) RCW 43.42.040 and 2003 c 71 s 4 & 2002 c 153 s 5;

21 (6) RCW 43.42.050 and 2002 c 153 s 6;

22 (7) RCW 43.42.060 and 2009 c 421 s 8 & 2002 c 153 s 7;

23 (8) RCW 43.42.070 and 2009 c 97 s 7, 2007 c 94 s 8, 2003 c 70 s 7,
24 & 2002 c 153 s 8;

25 (9) (~~(RCW 43.42.905 and 2002 c 153 s 10;~~

26 ~~(+10+))~~ RCW 43.42.900 and 2002 c 153 s 11; and

27 (~~(+11+))~~ (10) RCW 43.42.901 and 2002 c 153 s 12.

28 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and takes effect
31 immediately.

--- END ---